

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

**FILED**

JUL 14 2008

Frederick Bunk1,

Plaintiff,

CLERK, U.S. DISTRICT COURT  
WEST. DIST. OF PENNSYLVANIA

Civil Action No. 05-781

County of Allegheny et al.,

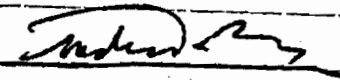
NOTICE OF APPEAL; AND MOTION FOR  
RECONSIDERATION (memorandum June 27, 08)

Plaintiff Frederick Bunk1 ("Bunk1") hereby notifies the Court and the parties that he appeals from the order entered on or about June 27, 2008 to the United States Court of Appeals for the Third Circuit.

Bunk1 also moves this Court for reconsideration as the Court clearly erred and granting the motion would prevent a manifest injustice. The Court clearly erred Bunk1 stated that the Supreme Court of Pennsylvania, a State Court upheld an award of 1.5 million for two inmates just exposed to death and AIDS in 2004-2005. Thus Bunk1 clearly stated a claim under State law and federal law. There is nothing in the record to show that Anna Phillips had any medical professional license when Bunk1 was treated in 2004-2005. The Court cites to a license in 2008. The Court cites to the CDC website that the magistrate judge did not mention in her report and recommendation; Bunk1 a pro inmate does not have access to the website or the internet. When the Court cited to a matter of <sup>public</sup> record outside the record of this case it violated Bunk1's due process and therefore the judgment is void. Thus Bunk1 moves under Fed. R. Civ. Proc. 60(b) and 59(c) for the Court to vacate and or alter and amend the judgment. There is nothing in the record to indicate that medical staff proposed that "the benefits of the treatment with the drug outweighed the costs of the potential allergic reaction." Therefore on the current record defendant's activity is much more than just negligence, it is a violation of the Eighth Amendment. Since the Bunk1 v. Hull report merely based its dismissal on a strict liability aka "respondent superior" and Bunk1 did not raise a strict liability claim in the instant case it was improper to dismiss the suit against the County defendants on this basis and a violation of Plaintiff's

The process thereby rendering the Judgment void. Lastly, the Court failed to offer any valid reason for refusing to exercise supplemental jurisdiction over the state law claims, and failed to certify or rather offer reasons for certifying why any appeal from this order would not be taken in good faith. Also violation of the Process. WHEREFORE, the Plaintiff, Frederick Banks respectfully requests that the foregoing motion be granted.

Respectfully Submitted,



Frederick Banks

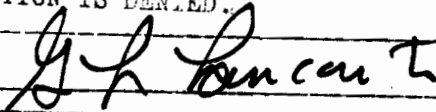
05711-068, 1Aa

Po Box 5000

Yazoo City, MS 39194

PLAINTIFF

AND NOW, THIS <sup>21<sup>st</sup></sup> DAY OF  
July 08, IT IS HEREBY  
ORDERED THAT THE WITHIN  
MOTION IS DENIED.



GARY L. LANCASTER,  
UNITED STATES DISTRICT JUDGE

Certificate of Service

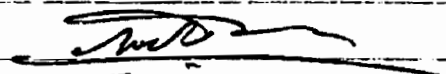
I hereby certify that on this 7<sup>th</sup> day of July 2008 I served a true and correct copy of the foregoing by mail delivery upon the following:

Clerk, US Dist Court

Po Box 1805

Birmingham, AL 35201

cc: All Counsel of Record

  
Frederick Banks